

From: Adam Rice
To: Microsoft ATR
Date: 11/23/01 9:26am
Subject: short version: I don't like the proposed settlement

Longer version:

The proposed settlement does not go far enough in dealing with a company that has been found to be a monopoly. It does not defend the interests of consumers, the (rest of the) software industry, or the computer hardware industry with sufficient vigor. It almost appears that the Department of Justice negotiated this settlement as if from a position of weakness, when in fact it is in a position of strength.

Some of the verbiage emanating from the government suggests that the Windows operating system should be considered akin to a public utility. If that is the case (I do not agree myself), then Microsoft should be treated like a public utility, with rate boards, universal-access guarantees, and the full weight of bureaucracy that surrounds an electricity or water utility to look after the public's interest. A three-member review panel--with 1.5 members appointed by Microsoft--does not qualify. That is more like the fox guarding the henhouse.

I suspect that Microsoft would, reasonably, find such a bureaucracy very intrusive, and reject the idea. The only alternative is for it to stop being a monopoly. While I did not agree with the specific approach that Judge Jackson took to breaking up Microsoft, I felt the general idea was a good one.

The above comments address the proposed settlement overall. I also have a comment on a specific aspect.

As formulated, the proposed settlement essentially allows Microsoft to define anything as part of the operating system. This is exactly what got Microsoft into this suit in the first place.

I would urge a very restrictive definition of "operating system" as a collection of functions (APIs) provided to software applications, with no features that are directly accessible to the user. That, plus some sort of basic file-management application. This definition should be easy to understand, easy to enforce, and most importantly, honest.

Microsoft has shown a stubborn insistence on treating anything it wants as "part of the operating system." A line must be drawn, and it must define a narrow space clearly and inflexibly.

As it stands now, the Windows operating system (and all others) come

bundled with many small utilities for convenience, plus e-mail and web-browsing applications, etc. The control of Internet access applications is very important. Microsoft must be barred from obtaining greater market share for its Internet applications simply by virtue of controlling the operating system rather than offering a superior product. Breaking the company up would be the most efficient and effective way of achieving that goal. The other options start looking like rate boards micro-managing a utility, but even that would be preferable to a monopoly unchecked. Which the proposed settlement enshrines.

thanks for your attention,

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